



**Agenda for the Board of Zoning Appeals
Wednesday, July 5, 2017
5:30 p.m. 50 S. Broadway, Lebanon, Ohio**

- (1) Roll Call**
- (2) Minutes from the meeting of May 3, 2017**
- (3) New Business**
 - (a) BZA-17-07-01; 541 North Broadway. – Pressley
Variance to Ch. 1139.12 to maintain the existing nonconforming sign located on the property.
The variance request is a change in the conditions of approval for the modification of a legal nonconforming use.
- (5) Other Business**
- (6) Adjourn**



CITY OF LEBANON BOARD OF ZONING APPEALS MINUTES

DATE: May 3, 2017

TIME: 5:32 p.m.

Members present were: Robert Kaufman and Jack Brooks. Also present City Manager, Pat Clements.

The first agenda item is consideration of the minutes from the Board of Zoning Appeals meeting of January 4, 2017. A motion was made and the motion passed unanimously.

BZA-17-05-01 – 1148 Walden Ct. – Dimensional Variance to Ch. 1134.03 – Rear Yard Setback (Deck)

The next item is new business for an application submitted by Mr. Steve Simmermaker on behalf of the owners Mr. and Ms. Stuart and Robyn Berning for a dimensional variance to Ch. 1134.03 to allow the proposed deck to encroach into the required rear yard setback at 1148 Walden Court. Mr. Clements summarized this agenda item, a motion was made to open the public hearing. Mr. Steve Simmermaker briefly discussed the project. A motion was made to close the public hearing. Next, a motion was made to approve the dimensional variance to allow the proposed deck to encroach into the required rear yard setback at 1148 Walden Court, subject to the following conditions:

1. Any variation from the approved plans will require additional review and approval by the Department of Planning and Development and/or the Board of Zoning Appeals prior to any work being conducted at the site.
2. All required City and County permits shall be obtained prior to beginning any construction activity at the subject site.
3. Property owner shall consult with staff prior to any further modification to the structure to ensure the appropriate approval process is followed.

The roll was called as follows: Mr. Brooks, Yes; Mr. Kaufman, Yes.

BZA-17-05-02 – 920 Columbus Ave. – Dimensional Variance to Ch. 1134.03 B – Side Yard Setback

The next item of new business is an application submitted by Mr. Tim King on behalf of the owners EIG Lebanon North Plaza, LLC for a dimensional variance to Ch. 1134.03.B to decrease the required minimum side yard for an existing commercial building located at 918-920 Columbus Avenue. Mr. Clements summarized this agenda item, a motion was made to open the public hearing. Mr. Nathan Shmucker asked if there were any plans to expand the Shopping Center and was informed that there is no information regarding any planned expansion. Mr. Clements explained the nature/purpose of the variance application. A motion was made to close the public hearing. Next, a motion was made to approve the dimensional variance to decrease the required minimum side yard for an existing commercial building located at 918-920 Columbus Avenue, subject to the following conditions:



CITY OF LEBANON BOARD OF ZONING APPEALS MINUTES

DATE: May 3, 2017

TIME: 5:32 p.m.

1. Any variation of the record plat will require additional review and approval by the Department of Planning and Development and/or the Board of Zoning Appeals prior recordation of the plat.
2. The property owner shall confirm with the Lebanon Fire Marshall and the Chief Building Official for Warren County that the common demising wall separating the buildings complies with the required fire separation rating for the designated building use group pursuant to applicable State Fire and Building Codes.

The roll was called as follows: Mr. Brooks, Yes; Mr. Kaufman, Yes.

Other Business

The meeting was adjourned 5:45.

Chairman

BOARD OF ZONING APPEALS

STAFF REPORT



June 27, 2017

BZA-17-07-01 - SIGN VARIANCE

541 North Broadway

PROPERTY OWNER/APPLICANT

Timothy Pressley
87 Rough Way #12
Lebanon, Ohio 45036

PROPERTY LOCATION

541 North Broadway
Lebanon, Ohio 45036

ZONING DISTRICT

Neighborhood Commercial (NC)

CURRENT USE

Automotive Wash (Lebanon Car Wash)

REQUESTED ACTION

The applicant requests a variance to Ch. 1139.12 to maintain the existing nonconforming sign located on the property. The variance request is a change in the conditions of approval for the modification of a legal nonconforming use. The property is zoned Neighborhood Commercial (NC).

DESCRIPTION OF REQUEST / BACKGROUND

The property owner Timothy Pressley has submitted an application for a variance to maintain the legal non-conforming pole-mounted sign for the Lebanon Car Wash located at 541 North Broadway. Mr. Pressley purchased the car wash facility in April and recently completed exterior improvements to the facility. The car wash opened in early June.

In January of 2017, the property owner requested to modify a legal nonconforming use to allow the discontinued automotive wash to be re-established for operation. The BZA approved the request with conditions. A condition of approval stipulated that the abandoned pole-mounted sign be removed from the property, to include the cabinet and pole attachments to the cinderblock.

The property owner considered options to remove the pole-mounted sign and construct a new ground-mounted sign in its place. However, the property owner determined that a new ground sign would not be practical or conducive with business operations due to setback requirements, site conditions, and conflicts with traffic circulation.

As a final option, the property owner decided to apply for a variance to maintain and use the existing pole-mounted sign.



Aerial – Existing Site

PUBLIC HEARING NOTIFICATION

A public hearing as required under Ch. 1132.04 (H.) is scheduled. A public hearing notice was published on Sunday, June 4, 2017. A public hearing notice was mailed to all property owners within 250 feet of the subject property on Tuesday, June 13, 2017.

STAFF ANALYSIS

The existing pole-mounted sign is approximately 15 feet in height with an overall sign area of 36 square feet (6' X 6'). The sign includes two lines of changeable copy. The sign is setback approximately 10 feet from the ROW along N. Broadway.

The sign is currently nonconforming in respect to height and sign area. The current sign requirements are as follows:

- **Ch. 1139.08 (A.3.)** – The maximum sign area shall not exceed 32 square feet with a maximum height of six (6) feet. (Currently: Sign area is 36 square feet; Sign height is 15 feet).

The request for change in the conditions of approval for the modification of the legal nonconforming use requires a variance to allow the nonconforming sign to remain on the property to identify the business operation. The property owner intends to replace the sign faces, refurbish/paint the pole, and upgrade the electric service to the sign. As proposed, the sign structure will maintain its current state with no change in size or height.



Existing Pole Sign

STAFF FINDINGS

Chapter 1132.09 D. states, "The BZA shall not grant a variance as authorized in this ordinance unless it can determine that there are practical difficulties encountered by the applicant in complying with the ordinances, regulations, measures and orders of administrative officials or agencies governing zoning". This evaluation shall include, but is not limited to, the following criteria:

- a. *Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;*

Finding: The variance is necessary in order to yield a reasonable return and allow for beneficial use of the property. Without the requested variance, the business will likely have to forego a ground sign for the business.

- b. *Whether the variance is substantial;*

Finding: The variance is not substantial. The overall height, location, and total sign area will not be altered, and the current dimensions will be maintained.

- c. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;*

Finding: There is no indication at this time to suggest the character of the area and adjoining properties will suffer any detriment. The sign has been in place for over 30 years. The property owner is proposing to refurbish and repair the sign.

- d. *Whether the variance would adversely affect the delivery of governmental services;*

Finding: There is no evidence to suggest the variance will adversely affect the delivery of governmental services.

- e. *Whether the property owner purchased the property with knowledge of the zoning restrictions;*

Finding: The owner recently acquired the property, and indicated he was unaware of the condition to remove the sign. The unique characteristics of the developed site necessitate the variance request.

- f. *Whether the problem can feasibly be addressed through some method other than variance; and*

Finding: The variance process is the only method to allow a change in the conditions of approval for the modification of the legal nonconforming use, and permit the existing nonconforming sign to remain and be used for business operations.

- g. *Whether the variance preserves the spirit and the intent behind the ordinance and whether substantial justice would be done by granting the variance.*

Finding: The proposed variance does not appear to be in direct conflict with the spirit and intent of the ordinance, and provides a reasonable solution to allow the existing sign to remain for business operations.

Staff finds that:

1. The applicant has satisfactorily met the requirements of Section 1132.09;
2. Based on the preceding criteria, the reasons set forth in the application justify the granting of the variance; and
3. The granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

STAFF RECOMMENDATION

Should the Board of Zoning Appeals approve the variance request, staff recommends the following conditions be included:

1. All required City and County permits shall be approved prior to beginning any related work on the sign.

ATTACHMENTS/EXHIBITS

1. BZA Application

2. Notice of Advertisement
3. Public Hearing Notice

☐ Approved ☐ Denied

Date of BZA Action : _____

Conditions if any: _____

BOARD OF ZONING APPEALS APPLICATION

LCO §1131.05



Department of Planning and Development

50 S. Broadway • Lebanon, Ohio 45036
(513) 228-3171 • FAX: (513) 932-2493

I. TYPE OF APPLICATION

- ☒ Variance (§1132.09)
☐ Change or Modification of Nonconforming Use (§1132.10)
☐ Appeal (§1132.11)
☐ Other (describe) _____

NOTE: All applications are reviewed by the Department of Planning and Development for completeness per LCO § 1132.04 prior to being processed. Applications that are incomplete will not be accepted. Applicants are required to contact the Department of Planning and Development to schedule a pre-application review conference with staff prior to submitting a formal application.

II. PROPERTY INFORMATION

Property Address: 341 N. BROADWAY LEB, OH 45036	
Parcel Number (SIDWELL): 6114512	Parcel Size (Acres): .444
Existing Land Use/Development: CAR WASH	
Zoning District:	

III. DESCRIPTION OF REQUEST: This section must be completed. Attach additional sheets, if needed.

A. Explanation of request, provide as much detail as possible. KEEP ORIGINAL POLE MOUNTED SIGN, GROUND MOUNTED SIGN WILL BLOCK TRAFFIC FLOW IN PARKING LOT
B. Reason for request. UNABLE TO HAVE SIGN UNLESS ALLOWED TO KEEP ORIGINAL POLE MOUNTED SIGN.
C. Provide justification on how the request meets the applicable approval criteria. See submittal requirements for criteria specific to your request. ORIGINAL SIGN DOES NOT BLOCK ANY OTHER PROPERTY OR SIGNS.

IV. CURRENT PROPERTY OWNER(S): This section must be completed.

Name (Individual or organization): Timothy W. Presley	
Mailing Address: (Street, City, State, Zip Code) 87 ROUGH WAY CONDO #12 LEB OH 45036	
Telephone: 513 544-7801	Fax: NONE
Email or Alternate Contact Information:	

V. APPLICANT: Please complete if applicable. This is the person(s) requesting approval, if different than the property owner(s).

Name:	
Organization (Owner, Developer, Contractor, etc.):	
Mailing Address: (Street, City, State, Zip Code)	
Telephone:	Fax:
Email or Alternate Contact Information:	

VI. AUTHORIZATION FOR OWNER'S APPLICANT/REPRESENTATIVE(S): If the applicant is not the property owner, this section shall be completed and notarized.

I _____, the property owner, hereby authorize _____ to act as my applicant/representative(s) in all matters pertaining to processing and approval of this application, including modifying the project. I agree to be bound by all representations and agreements made by the designated representative.	
Signature of Current Property Owner:	Date:

Subscribed and sworn to before me this _____ day of _____, 20_____

State of _____

County of _____ Notary Public _____

VII. APPLICANT'S CERTIFICATION

I <u>Timothy W Presley</u> , the owner or authorized representative, have read and understand the contents of this application. I hereby certify that the information contained in this application, attached exhibits and other information submitted is complete and in all respects true and correct, to the best of my knowledge and belief.	
Signature of Current Property Owner: <u>Timothy W Presley</u>	Date: <u>5-29-17</u>

DEPARTMENTAL USE ONLY

Application No.:	Fee Received: <u>\$ 250.00</u> Receipt No.: <u>163686</u>	BZA Date: Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No
Date Received: <u>05 / 30 / 2017</u> Received by: <u>RRS</u>	Zoning District: LUP Conformance:	BZA Action: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved with Conditions
Comments: _____		

PUBLIC HEARING NOTICE
LEBANON BOARD OF ZONING APPEALS

The Lebanon Board of Zoning Appeals will hold a public hearing on Wednesday, July 5, 2017 at 5:30 p.m., in the City Council Chambers, Second Floor, City Building, 50 S. Broadway, Lebanon, Ohio. The public hearing is to solicit input on a variance request filed by Timothy W. Presley to maintain an existing nonconforming sign (Ch. 1139.12) at 541 North Broadway, Lebanon, Ohio. The property is zoned Neighborhood Commercial (NC).

Any interested person may attend this meeting and express their views and submit evidence and/or written comments regarding the request. The application is available for review in the Department of Planning and Development, Lebanon City Building, 50 S. Broadway, Lebanon, OH 45036. If you have any questions regarding this issue, please contact the Department of Planning and Development at (513) 228-3171.

To run: **June 4, 2017**
The Pulse Journal
P.O. #201705– City of Lebanon



June 13, 2017

NOTICE OF PUBLIC HEARING LEBANON BOARD OF ZONING APPEALS

TO: PROPERTY OWNERS WITHIN 250 FEET OF 541 NORTH BROADWAY

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